01		
02		
03		
04		
05		
06	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE	
07		
08	BRUCE DANIEL MULLIGAN,	
09	Plaintiff, v.	CASE NO. C09-842-RSL-MAT
10	DR. DAVID KENNEY, et al.,	ORDER DENYING PLAINTIFF'S
11	Defendants.	MOTION TO COMPEL
12		
13	This is a civil rights action filed under 42 U.S.C. § 1983. This matter comes before the	
14	Court on plaintiff's motion to compel discovery. The Court, having reviewed plaintiff's	
15	motion, all briefing submitted by the parties, and the remaining record, does hereby ORDER as	
16	follows:	
17	(1) Plaintiff's motion to compel discovery (Dkt. No. 39) is DENIED. In January	
18	2010, plaintiff filed a motion to compel discovery in which he asserted that defendants had	
19	failed to produce a list of all single cell placements at the Twin Rivers Unit of the Monroe	
20	Correctional Complex which defendants' counsel had agreed to produce during a discovery	
21	conference held in September 2009. Plaintiff also asserted in his motion to compel that	
22	defendants had failed to produce a series of e-mail attachments requested in a set of discovery	
	ORDER DENYING PLAINTIFF'S MOTION TO COMPEL PAGE - 1	

requests which were sent to defendants' counsel in October 2009.

Defendants, in their response to plaintiff's motion to compel, asserted that the requested documents had been provided and that plaintiff's motion was therefore moot. However, defendants referenced therein only plaintiff's request for information regarding single cell placements. Plaintiff, in his reply brief in support of his motion to compel, asserted that his motion was not moot because the information he received in response to his request for a list single cell placements was incomplete and because he had not received the requested e-mail attachments.

Because defendants did not have an opportunity to respond to plaintiff's contention that their response to his request for information regarding single cell placements was incomplete, and because defendants failed to respond in their opposition brief to plaintiff's contention that they had yet to produce requested e-mail attachments, this Court determined that additional briefing was necessary. Defendants were therefore directed to file a supplemental response to plaintiff's motion to compel.

Defendants filed their supplemental response to plaintiff's motion in March 2010. Defendants assert therein, with respect to the list of single cell placements, that they have produced all of the information agreed upon by the parties at the September 2009, discovery conference. Defendants explain that while plaintiff, in his motion to compel, asked that defendants be compelled to produce a list of single cell assignments covering all of 2008 and 2009, the agreement reached at the September 2009 discovery conference was that defendants would provide a list of *current* inmates assigned to single cells, not a list encompassing a two year period. Defendants also note in their supplemental response that because of the nature of

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL PAGE - 2

inmate housing, compiling the list suggested by plaintiff "would be arduous, if not impossible." 01 (Dkt. No. 51 at 2.) 02 03 Though plaintiff was provided an opportunity to file a supplemental reply brief in 04 support of his motion to compel, he did not do so. In the absence of any challenge to 05 defendants' assertion that they have, in fact, provided all of the discovery agreed upon at the 06 September 2009 conference, this Court can only conclude that the agreed upon materials have 07 been produced and that plaintiff's motion to compel is therefore moot in this regard. 08 With respect to the issue of e-mail attachments, defendants assert in their supplemental response that the requested e-mail attachments have either been provided or do not exist. 09 10 Again, plaintiff does not challenge defendants' assertion. Accordingly, plaintiff's motion to compel is moot in this regard as well. 11 12 The Clerk is directed to send copies of this Order to plaintiff, to counsel for (2) 13 defendants, and to the Honorable Robert S. Lasnik. 14 DATED this 18th day of June, 2010. 15 16 United States Magistrate Judge 17 18 19 20 21 22

ORDER DENYING PLAINTIFF'S

MOTION TO COMPEL

PAGE - 3